

GUJARAT SMOKE-NUISANCES ACT, 1963

3 of 1964

[29th January 1964]

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GUJARAT SMOKE-NUISANCES ACT, 1963

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An Act for the abatement of nuisances arising from the smoke of furnances in the City of Ahmedabad and certain other area adjacent thereto and to provide for the extension thereof to other areas in the State of Gujarat. It is hereby enacted in the Fourteenth Year of the Republic of India as follows :

1. Short title and extent :-

(2) It extends in the first instance to the City of Ahmedabad and to the remaining areas within a radius of five miles from the clock

tower on Bhadra Gate in the City of Ahmedabad exclusive of the area included within the limits of the Ahmedabad Cantonment.

2. Power further to extend Act :-

(2) Any inhabitant of an area to which it is proposed to extend this Act may, if he objects to such extension, submit his objection in writing to the State Government within a period of three months from the publication of the said notification in the Official Gazette.

(3) At any time after the expiration of the said period, and after considering the objections, if any, submitted under sub-section (2), the State Government may, by notification, in the Official Gazette, extend this Act to the said area.

3. Definitions :-

In this Act unless the context otherwise requires,

(2) "flue" or "chimney" means any flue or chimney joined to connected with or forming part of a furnace;

(3) "Inspector" means a Chief Inspector of Smoke-nuisances, or an Assistant Inspector of Smoke-nuisances, appointed under this Act;

(4) "the Commission" means the Gujarat Smoke-nuisances Commission constituted under this Act;

(5) "occupier" means any person for the time being paying or liable to pay, to the owner the rent or any portion of the rent of the land or building in respect of which the word is used;

(7) "Magistrate" means a Magistrate of the first class or a Bench of Magistrates exercising first class powers under the Code of Criminal Procedure, 1898 (V of 1898).

(8) "prescribed" means prescribed by rules;

(9) "rules" means rules made under this Act.

4. Constitution of Commission :-

(1) The State Government shall, by notification in the Official Gazette, constitute a Commission to be called the Gujarat Smoke-nuisances Commission to supervise and control the working of this Act.

(2) The said Commission shall consist of a President nominated by the State Government and so many other members as the State

Government may determine.

(3) One-half of the members (exclusive of the President) shall be nominated by the State Government ; and the remainder shall be elected in such manner and for such period as, the State Government may direct, by bodies or associations whose interests are likely to be affected by this Act; and the appointment of all members whether nominated or election shall be notified in the Official Gazette.

(4) Where a casual vacancy occurs in the case of a nominated member the State Government shall make a fresh nomination, and where a casual vacancy occurs in the case of an elected member the election shall be made by the same body or association as that which elected, the member whose place to be filled; and a member so nominated or elected shall hold office so long as the member whose place he fills would have been entitled to hold office had the vacancy not occurred.

(5) No act done by the Commission shall be questioned on the ground merely of the existence of any vacancy in or any defect in the constitution of the Commission.

5. Appointment of inspectors :-

(1) The State Government may, by notification in the Official Gazette, appoint a Chief Inspector of Smoke nuisance and so many Assistant Inspectors of Smoke-nuisance as it may think fit.

(2) Every Assistant Inspector appointed under sub-section (1) shall be subordinate to the Chief Inspector, and all Inspector shall be subordinate to, and to the control of, the Commission.

6. Inspectors to be public servants :-

Every Inspector appointed under this Act shall, for the purposes of this Act, be deemed to be a public servant within the meaning of Section 21 of the Indian Penal Code, 1860 (XLV of 1860).

7. Power to prohibit erection of kilns or furnaces or manufacture of coke, in specified areas and to inflict penalties :-

(2) If any furnace be erected, re-erected, altered or added to or any kiln be erected in contravention of any notification issued under clause (a) or (b) of sub-section (1) the owner thereof shall be liable to fine which may extend to two hundred and fifty rupees.

(3) If any person manufactures coke in contravention of any notification issued under clause (c) of sub-section (1), he shall be liable to fine which may extend on first conviction to two hundred and fifty rupees, and on any subsequent conviction to five hundred rupees.

(4) If any person makes coke in contravention of any notification issued under clause (d) of sub-section (1), he shall be liable to fine which may extend on first conviction to twenty-five rupees, and on any subsequent conviction to fifty rupees.

(5) If any coke is made in any building or place in contravention of a notification issued under clause (d) of sub-section (1), the owner or occupier of such building or place shall be liable to fine which may extend on first conviction to twenty-five rupees, and on any subsequent conviction to fifty rupees.

(6) Where any coal is in process of being made or has been made into coke in contravention of a notification issued under clause (d) of sub-section (1), an Inspector may seize such coal or coke, and report the seizure to Magistrate who may, after such enquiry as he thinks necessary, order such coke or coal to be confiscated, and to be sold in the prescribed manner.

8. Power to order demolition of kilns or furnaces unlawfully erected :-

(2) Any such person failing to demolish any kiln or furnace within the period prescribed in any such order, or within such longer period as the Magistrate may, for reasons to be stated, allow, shall be liable to fine which may extend to twenty rupees for every day thereafter during which such failure continues.

9. Penalty for excessive emission of smoke :-

(1) If smoke be emitted from any furnace in greater density, or at a lower altitude, or for a longer time, than is permitted by rules made under this Act, the owner of the furnace shall be liable to fine which may extend on first conviction to two hundred and fifty rupees, and on any subsequent conviction to five hundred rupees.

10. No furnace etc. to be erected, etc. or used except with approval or permission of Commission :-

(2) If any furnace, flue or chimney be erected, altered, added to or re-erected in contravention of the provisions of clause (a), or used

in contravention of the provisions of clause (b) or clause (c) of sub-section (1), as the case may be, the owner of such furnace, flue or chimney shall, on conviction, be punished with fine which may extend to one hundred rupees and in the case of a continuing contravention of the said clause (b) or clause (c) with an additional fine which, may extend to twenty rupees for every day during which such contravention continues after conviction for the first such contravention.

11. Power to order demolition of furnace, flue or chimney unlawfully erected :-

(2) Any such person failing to demolish any furnace, flue or chimney within the period specified in the order, or within such longer period as the Magistrate may, for reasons to be stated, allow, shall be liable to fine which may extend to twenty rupees for every day thereafter during which such failure continues.

12. Powers of Inspectors :-

13. Rules :-

(1) The State Government after consultation with the Commission in regard to matters concerning it may, subject to the condition of previous publication, by notification in the Official Gazette, make rules for the purpose of carrying into effect the provisions of this Act.

(3) All rules made under this section shall be laid for not less than thirty days before the State Legislature as soon as possible after they are made, and shall be subject to rescission by the State Legislature, or such modifications as the State Legislature may make, during the session in which they are to be laid, or the session immediately following.

(4) Any rescission or modifications so made by the State Legislature shall be published in the Official Gazette and shall thereupon take effect.

14. Cognizance of offences :-

A Magistrate may take cognizance of an offence against this Act only

(a) upon a complaint made by, an inspector with the previous sanction of the Commission or of a sub-committee appointed by the Commission, and

(b) within a period of three months from the date on which the alleged commission of the offence came to the knowledge of the Inspector.

15. Exercise of the powers of the Commission by the President or any member authorised by the President :-

16. Repeal and savings :-

(3) Anything done or action taken (including any appointment made, notification, order, direction or notice issued) by or under the provisions of any of the Acts so repealed shall, in so far as it is not inconsistent with the provisions of this Act, be deemed to have been done or taken under the corresponding provisions of this Act and shall continue in force unless and until it is superseded by anything done or any action taken under this Act.